

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO on the	)	
relation of State Engineer,	)	
	)	
Plaintiff,	)	
	)	69cv07941-BB
-v-	)	
	)	RIO CHAMA STREAM SYSTEM
ROMAN ARAGON et al.,	)	
	)	Sections 3, 5 and 7
Defendants.	)	
	)	

ORDER TAKING UNDER ADVISEMENT  
JOINT MOTION TO AMEND SCHEDULING ORDER

THIS MATTER is before the Special Master on the February 1, 2007, Joint Motion to Amend Scheduling Order for Federal Non-Indian Water Rights Claims (No. 8542) (Joint Motion), filed by the State of New Mexico, ex rel. State Engineer (State) and the United States of America (United States). The Motion requests extensions to deadlines set forth in the March 1, 2005, Scheduling Order (7770), as amended October 31, 2005 (8029). Having reviewed the Joint Motion and being otherwise fully advised in the premises, I find that the specific requests set forth in the Joint Motion should be taken under advisement until the general status conference scheduled for May 1, 2007. Until then, the parties shall continue working on the tasks which are outlined in the Joint Motion.

I do not doubt the parties' sincerity in requesting the extensions of time, and I understand that they have limited resources with which to complete the adjudication of the United States' proprietary water rights claims. Nevertheless, there have been significant delays in adjudicating the claims. The Joint Motion requests further significant delays - an additional 210 days, until

August 29, 2007, in which to serve a proposed amended consent order for the additional Section 5 claims, and an additional 290 days, until November 16, 2007, to serve a proposed consent order for Section 3. My concern with granting additional extensions is that they will not serve to advance the “just, speedy, and inexpensive determination” of this action. Fed. R. Civ. P. 1.

Below is a brief review of the procedural history associated with adjudicating the United States’ proprietary water rights claims in the northern three sections of the Rio Chama Stream System, which may provide a useful context for the discussions on May 1.

The adjudication of federal non-Indian water rights claims in the Sections 5 and 3 began with procedural orders filed May 8, 2000 (No. 5896) and December 11, 2000 (No. 6064). Both orders included deadlines for the State’s investigations of filed claims, the filing of any amended claims, and provisions for participation by section acéquias. These orders were amended throughout the years to extend various deadlines (*see, e.g.*, Nos. 6154, 6411, 6575, 6832). The United States’ Section 5 claims were filed May 15 and October 16, 2000 (Nos. 5899, 5900, 5901, 5977); Section 3 claims were filed February 4, 2002 (Nos. 6523, 6524).

Following discussions at the February 10, 2005, status and scheduling conference, I entered a new Scheduling Order for Sections 5, 3 and 7 on March 1, 2005 (No. 7770). The order set out a framework for phased proceedings in all three sections, beginning with a July 31, 2005, deadline for the State’s serving Section 5 consent orders on the United States, and including proceedings for completing the adjudication of federal water rights claims in Sections 1, 2, 4, 6 and 8. This order was amended October 13, 2005, to extend certain deadlines for proceedings in Sections 5 and 3. The deadline for the State’s serving Section 5 consent orders on the United States was extended to November 30, 2005.

The proposed consent order was served on the United States and counsel for the Gallina-Capulin Acequia Association on December 15, 2005. Subsequently the United States notified the State that about additional federal proprietary claims in Section 5 which would be provided to the State by July 7, 2006. *See* the State's June 23, 2006, Status Report (No. 8299). The Joint Motion states that the additional field inspections for Section 5 were completed by September, 2006. At the November 6, 2006, general status conference, counsel for the State, indicated that the Section 5 revised consent order could be provided to the United States by January 31, 2007. She noted also that the field inspections for Section 3 had been completed in October, and that a proposed consent order for the United States' claims in Section 3 could be served by the end of July [2007]. Tr. 20 - 23. I entered a Scheduling Order for Further Proceedings on December 4, 2006 (No. 8505) which ordered counsel for the State and the United States to move to amend the March 1, 2005, order, as amended October 13, 2005.

IT IS ORDERED, THEREFORE, that the Joint Motion is taken under consideration until the next general status and scheduling conference, now set for May 1, 2007.

*Vickie L. Gabin*  
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SPECIAL MASTER